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10/044,558	01/11/2002	Jian Fan	10018003-1	9516
22879 7590 02/17/2010 HEWLETT-PACKARD COMPANY Intellectual Property Administration 3404 E. Harmony Road Mail Stop 35 FORT COLLINS, CO 80528			EXAMINER LE, BRIAN Q	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JIAN FAN

Application No. 10/044,558
Technology Center 2600

Mailed: February 16, 2010

Before DELORES LOWE, *Review Team Paralegal*
LOWE, *Review Team Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on February 12, 2010. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter requiring attention prior to docketing.

PRIOR ORDER FOR RETURN

A prior “Order Remanding Appeal to Examiner” was mailed on June 24, 2009 wherein the Examiner was instructed that corrections were required. A review of the file finds that the required corrections have not been made or have not been made in entirety. The matters still requiring attention prior to docketing are identified below.

Claims 1 to 3 and 5 to 17 of the instant application are set forth as method claims that may not fall with one of the four statutory categories of invention recited in 35 U.S.C. § 101. On May 15, 2008, the Deputy Commissioner for Patent Examining Policy, John J. Love, issued a memorandum entitled “Clarification of “Processes” under 35 U.S.C. § 101.” This memorandum is further used in conjunction with the Interim Guidelines and the Manual of Patent Examining Procedure § 2106.IV.B, when determining whether a claimed invention falls within a statutory category of invention. *See In re Bilski*, No. 2007-1130, ___ F.3d ___, 2008 WL 4757110 (Fed. Cir. Oct. 30, 2008) (en banc). Thus, there is a question as to whether claims 1 to 3 and 5 to 17 meet the requirements of being a patent eligible process under 35 U.S.C. § 101.

Accordingly, it is

ORDERED that the application is remanded to the Examiner to determine if claims 1 to 3 and 5 to 17 meet the requirements of being a patent eligible process under 35 U.S.C. § 101.

Application No. 10/044,558

If there are any questions pertaining to this order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

/dal/

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